

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Fig. 7 and 8. These sheets, which include Figs. 7 and 8, replace the original sheets including Figs. 7 and 8. In Figs. 7 and 8, the legend "Prior Art" previously omitted has been added.

Attachment: Replacement Sheets

### **REMARKS**

The Office Action dated July 11, 2008, has been received and carefully noted. The following remarks are being submitted as a full and complete response thereto. Reconsideration of this application is respectfully requested.

#### **Summary of the Office Action**

In the outstanding Office Action, Figures 7 and 8 were objected to for formalities. Claims 1, 4, 5 and 9 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yandrasits et al., U.S. Patent No. 6,979,383 (hereinafter, "Yandrasits"). Claims 2, 3 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yandrasits et al., as applied to claims 1 and 5 above, and further in view of Mowrer et al., U.S. Patent No. 5,942,073 (hereinafter, "Mowrer"). Claims 7, 8, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yandrasits et al. as applied to claim 1 above, and further in view of Healy et al., U.S. Publication No. 2005/0058870 (hereinafter, "Healy").

#### **Summary Response to the Office Action**

All claims have been left in their original form. Thus, claims 1-11 are currently pending in the application and are subject to further examination. To the extent that the rejection(s) remain applicable to the claims currently pending, the Applicants hereby traverse the rejections, as follows.

### **Informal Matters**

In the Office Action mailed July 11, 2008, the drawings were objected to for informalities. The drawings have been amended in responsive to the objections. If any additional amendment is necessary to overcome the objections, the Examiner is requested to contact the Applicant's undersigned representative.

### **Receipt of Priority Document**

The instant application is a national phase, under 35 U.S.C. §371, of International Application No. PCT/JP03/13777, filed October 28, 2003. This is indicated on the transmittal form submitted when the instant application was filed. PCT/JP03/13777 claims priority from JP 2002-313740, which was filed on October 29, 2002. The claim to this priority date is also indicated on the transmittal form submitted when the instant application was filed. Applicants note a certified copy of priority document JP 2002-313740 was filed in the Patent Office on August 31, 2004. Verified translations of the priority document have been enclosed with this response.

### **Claim Rejections – 35 U.S.C. §102**

Independent claims 1 and 9, and dependent claims 4 and 5, are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Number 6,979,383 to Yandrasits et al. (Yandrasits). Applicants respectfully traverse these rejections for being based upon a reference that is not a valid prior art reference.

In particular, Applicants respectfully note that the instant application is a national phase, under 35 U.S.C. §371, of International Application No. PCT/JP03/13777, filed

October 28, 2003. This is indicated on the transmittal form submitted when the instant application was filed. PCT/JP03/13777 claims priority from JP 2002-313740, which was filed on October 29, 2002. The claim to this priority date is also indicated on the transmittal form submitted when the instant application was filed. Applicants note a certified copy of priority document JP 2002-313740 was filed in the Patent Office on August 31, 2004. Therefore, the instant application has an effective filing date of October 29, 2002. In order to perfect the claim for priority, Applicants enclose verified translations of the priority document. Accordingly, Applicants respectfully submit the effective invention date of the instant application is October 29, 2002. Additionally, Applicants respectfully note the filing date of Yandrasits, which does not claim priority to another application, is December 17, 2002.

Therefore, the instant application has an effective invention date of October 29, 2002. Moreover, as noted above, the Patent Office has, on numerous occasions, acknowledged receipt of the certified copy of the priority document and the claim for priority. In order to perfect the claim for priority, Applicants enclose herein a verified translation of the priority document. Accordingly, Applicants respectfully submit the effective filing date of the instant application is October 29, 2002.

Please note, in particular, the following support for independent claims 1 and 9 in JP 2002-313740. Page 1, lines 4-19, of the translation of JP 2002-313740, provide, verbatim, instant application's claim 1 as well as features of the membrane-electrode structure of the polymer electrolyte fuel cell of claim 9.

Given that the effective invention date of the present application (October 29, 2002) precedes the U.S. filing date of Yandrasits (December 17, 2002) by more than

one month, Applicants respectfully submit Yandrasits is not a valid prior art reference and the rejections wherein Yandrasits is cited against such claims, such as the 35 U.S.C. §102(e) rejections of independent claims 1 and 9, are inappropriate and should be withdrawn.

Therefore, for at least these reasons the application of Yandrasits in the Office action is improper and does not teach or suggest all of the features of independent claims 1 and 9. Moreover, Applicants also respectfully assert that dependent claims 4 and 5 are allowable at least because of their ultimate dependency on independent claim 1 and for the additional features that they recite. Accordingly, the Applicants respectfully request that the 35 U.S.C. § 102(e) rejections of the Office Action of July 11, 2008 relating to these claims be withdrawn.

### **Claim Rejections – 35 U.S.C. §103**

Claims 2, 3 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yandrasits and further in view of Mowrer. Claims 7, 8, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yandrasits and further in view of Healy. The Applicants respectfully traverse these rejections because Yandrasits is not a valid prior art reference, as explained above, and because both Mowrer and Healy fail to teach each and every feature of independent claims 1 and 9.

Please note, in particular, the following support for independent claim 1, on which claims 2, 3 and 6-8 depend, as well as for independent claims 10 and 11, in JP 2002-313740. Page 1, lines 4-19, of the translation of JP 2002-313740, provide, verbatim, instant application's claim 1 as well as features of the membrane-electrode structure of

the electrical apparatus of claim 10 and features of the membrane-electrode structure of the transport apparatus of claim 11.

Given that the effective invention date of the present application (October 29, 2002) precedes the filing date of Yandrasits (December 17, 2002) by more than one month, Applicants respectfully submit Yandrasits is not a valid prior art reference and the rejections wherein Yandrasits is cited against such claims, such as the 35 U.S.C. § 103(a) rejections of claims 2, 3, 6-8, 10 and 11, are inappropriate and should be withdrawn.

Further, each of Mowrer and Healy fail to teach each and every feature of independent claim 1, on which claims 2, 3 and 6-8 depend.

The Applicants also respectfully assert that dependent claims 2, 3, 6, 7 and 8 are allowable at least because of their ultimate dependency on independent claim 1 and for the additional features that they recite. Accordingly, the Applicants respectfully request that the 35 U.S.C. § 103(a) rejections of the Office Action of July 11, 2008 relating to these claims be withdrawn.

### **Conclusion**

For all of the above reasons, it is respectfully submitted that claims 1-11 are in condition for allowance and a Notice of Allowability is earnestly solicited.

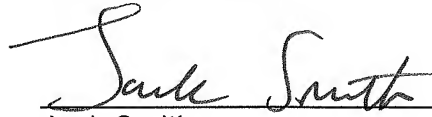
Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is invited to contact the undersigned representative at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 referencing client matter number 101175-00054.

Respectfully submitted,

Arent Fox LLP

November 6, 2008

  
\_\_\_\_\_  
Jack Smith  
Registration No. 61,986

**Customer No. 004372**

1050 Connecticut Ave., N.W.  
Suite 400  
Washington, D.C. 20036-5339  
Telephone No. (202) 857-6104  
Facsimile No. (202) 857-6395

JS:cdw

Enclosures: Replacement Sheets (2 Sheets)  
Verified English Translation of JP 2002-313740